

Arguments/Remarks

Claims 1 to 60 are currently pending, with Claims 59 and 60 added as new dependent claims. Claims 42-43, 45-47, 51, and 54-55 have been amended. No new matter has been added. Support for the amendment to Claim 42 may be found throughout the Specification, inter alia, at page 2, second paragraph; page 3, second paragraph; page 5, last paragraph; and page 25, third paragraph. Support for the amendments to Claims 43 and 45 and for new Claims 59 and 60 may be found throughout the Specification, inter alia, at page 1, in the second paragraph of the Background Section. Support for the amendment to Claim 51 may be found throughout the Specification, inter alia, at page 27, last paragraph; page 28, first paragraph; page 48, third paragraph; and page 53, fifth paragraph. Claims 54 and 55 have also been amended. Support for the amendment to Claim 54 may be found throughout the Specification, inter alia, at page 55, last paragraph. Support for the amendment to Claim 55 may be found throughout the Specification, inter alia, at page 53, penultimate paragraph, to page 54, second paragraph, and Example C5. Additional minor and grammatical amendments have been made throughout the claims. Support for these amendments may also be found throughout the Specification and in the Claims as previously filed and/or amended.

The Specification is amended to note that the related application Serial No. 09/753,943, has issued as United States Patent No. 6,670,468.

With respect to any claim amendment or cancellations, Applicants have not dedicated to the public or abandoned any unclaimed subject matter, and moreover have not acquiesced to any rejections and/or objections made by the Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiment in one or more future continuation and/or divisional application(s).

Applicants thank the Office for acknowledging and entering the amendment filed 12/22/08, and for withdrawing the rejections that are not reiterated in the current Office Action.

Election/Restriction

Applicants thank the Office for withdrawing the restriction between the composition and method claims, and for examining Claims 1 to 58. Applicants submit the present claim amendments on the presumption that the species election in the 12/22/08 Response is now obviated.

Double Patenting

Claims 1-58 have been rejected on the ground of nonstatutory obviousness-type double patenting as being allegedly unpatentable over claims 1-4 of U.S. patent No. 6,670,468.

The Office has stated that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground.

A terminal disclaimer will be filed upon receipt of notification of otherwise allowable subject matter, if the claims scope is similar at that time.

Suspension of this rejection until that time is respectfully requested.

Claims Rejections – 35 USC §112/101

The Office has rejected Claims 42-47 and 51 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The Office has alleged that the claims do not recite any active, positive steps.

Claims 42-47, 51, and 54-55 in the present case have been amended to include active positive steps. Additional minor and grammatical changes have been made to these claims.

Withdrawal of this rejection is thus respectfully requested.

Reconsideration and withdrawal of the rejections in view of the amended claims is hereby requested. In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Office is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Office is invited to telephone the undersigned at the number given below. In the event that the Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to the Deposit Account noted above. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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Reg. No. 41,386

Date: 3 August 2009